

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

DALE JAMES NICKERSON,

Defendant and Appellant.

C045602

(Super. Ct. No. 03F5680)

ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on April 4, 2005, be modified as follows:

1. On page 7 of the opinion, in the first sentence under Section B, change the word "argue" to "argued", and after the word "brief", add as footnote 6 the following footnote, which will require renumbering of all subsequent footnotes:

6. At oral argument, the People changed their position and conceded that the matter should not be dismissed. Rather, the People argued equity and fairness required the matter to be transferred to the appellate department of the superior court for resolution.

2. On page 7 of the opinion, line 16, delete the following sentence: "We disagree."

3. On page 7 of the opinion, the second full paragraph beginning with line 17, change the first sentence to read:

"Various statutes and rules of court address the transfer of cases between courts (see, e.g., § 1471; Code Civ. Proc., §§ 396, 911; Cal. Rules of Court, rules 47.1, 62) and the lack of any authority that directly addresses the circumstances presented here."

This modification does not change the judgment.

BLEASE, Acting P.J.

NICHOLSON, J.

ROBIE, J.